

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Timothy J. Conley,

Plaintiff,

v.

Case No. 1:07cv737

Warden, Southern Ohio Correctional Facility,

Judge Michael R. Barrett

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on September 30, 2008 (Doc. 24).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. 636, this Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Defendants' Motion for Judgment on the Pleadings (Doc. 11) is **GRANTED** dismissing Count 1 with prejudice and dismissing Count 2 without prejudice. This matter shall proceed before the Magistrate Judge.

IT IS SO ORDERED.

S/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court